IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITR No. 16 of 1997
Date of decision 16 .7 .2007

The Commissioner of Income Tax, Jalandhar. .. Applicant

Versus

M/s Indu Asian Switchgears P. Ltd. .. Respondent

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR
HON'BLE MR. JUSTICE AJAY KUMAR MITTAL

PRESENT: Mr.Sanjiv Bansal,, Advocate for the applicant
Mr. Sanjay Bansal, Sr. Advocate with
Mr. Parvesh Saini, Advocate

M.M.Kumar, J.

At the instance of the Revenue this Court while exercising jurisdiction under Section 256(2) of the Income Tax Act, 1961 has required the Income Tax Appellate Tribunal to refer the following question of law for its opinion which has arisen from order dated 16.4.1992 passed by the Tribunal in ITA 521(ASR)/1987 in respect of assessment year 1979-80.

> " Whether on the facts and in the circumstances of the case, the learned ITAT is right in law in holding that the expenses on account of commission paid to the agents/ marketing organisers amounting to Rs.5,13,578/- and Rs.10,33,787/- being the turnover discount paid to the distributors are not to be taken into account for the purpose of disallowance u/s 37(3A) of the Income Tax Act?"

The afore-mentioned question was one of the two questions which have earlier been considered by a Division Bench of this Court in the case of Commissioner of Income tax v. Indo Asian Switchgears (P)Ltd. (2002)257 ITR 645 which itself was a case of the assessee in respect of the assessment year 1980-81. The afore-mentioned question was answered in

favour of the assessee and against the Revenue. Accordingly the question of law raised is decided against the Revenue.

(M.M.Kumar)
Judge

(Ajay Kumar Mittal)
Judge

16.7.2007
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